

Submission of a case to the European Court of Human Rights

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- National proceedings prior to the submission
- Krachunova v. Bulgaria (sexual exploitation)
- S.Z. v. Bulgaria (sexual exploitation)

At what stage during proceedings before national courts should human rights violations be pleaded?

- application prepared from the outset of the national proceedings – the type admissible application in future
- violations must be pleaded substantively at first instance
- essential to plead the same Convention arguments on appeal /principle of subsidiarity/
- advisable for allegations of violations to be made in writing - lawyer will be able to produce those documents ultimately before the Court to show that the relevant arguments have been made at every stage of the national proceedings

How should the Court case law be invoked in the national proceedings?

- referring to precedent decisions of the Court regarding violations of the Article at issue
- judgments fully referenced, including the specific paragraphs
- not limiting yourselves to considering only the judgments concerning the same respondent State
- advisable to consider all Court judgments arising in other countries with a similar legal system

Compensation for material damages

- *Krachunova v. Bulgaria*: appl. № 18269/18; registered on 24 May 2018; current status “requiring a decision”
- denied compensation for material damages /money earned from prostitution/
- Article 13 in conjunction with Article 4
- Precedent question: Whether Art. 13 requires compensation for material damages to be provided for victims of trafficking?
- Until now, the Court has examined compensation for material damages only in the context of sexual violence under Article 3 (*E. and Others v. UK*, appl. № 33218/96)

What are the legal arguments?

- The applicant claims that Art. 13 in conjunction with Art. 4 guarantee her a right to compensation of all the damages caused by the crime, including material damages.
- Bulgarian law criminalizes earning income through prostitution – Art. 329 of the CC. The national judges refused to award the lost earnings, relying on Art. 329 CC.
- As the domestic remedy, which the applicant employed to defend her right, guaranteed by Article 4, has not been effective and the Bulgarian law does not provide her a legal ground for compensation of the lost earnings, just the contrary – criminalizes them – she was deprived of effective civil-law remedy in connection to the crime against her.

Exhaustion of domestic remedies

- Where more than one potentially effective remedy is available, the applicant is only required to have used one remedy of his or her choice“, *Mazukna v. Lithuania*, appl. 72092/12, § 74
- Mrs Krachunova completed the criminal-law way against the trafficker:
 - while working, fined 9 times by road policemen and each time she wrote down in detention orders and penalties that prostitution was her way to earn money for a living
 - on the 10th time, she reported a crime against her
 - she testified before the investigation authorities and the court
 - she provided detailed testimonies about prices of services , number of clients, distribution of money between her and the trafficker
 - she participated in the trial as private prosecutor and civil claimant
 - she sustained her claim for material damages till the end of the proceedings
 - she appealed the verdict in the part refusing to award her compensation for material damages
- Therefore, the applicant did not have to initiate a separate set of proceedings before a civil court against her trafficker.

Compensation for re-victimization

- *S.Z. v. Bulgaria*, appl. No. 29263/12, judgment of 3 March 2015
- “39. The excessive length of the proceedings undeniably had negative repercussions on the applicant, who, clearly psychologically very vulnerable as a result of the attack, was left in a state of uncertainty regarding the possibility of securing the trial and punishment of her assailants and had to **return to court repeatedly and relive the events during the many examinations** by the court”
- Article 41: EUR 15,000 in respect of non-pecuniary damage for all violations found